

CALIFORNIA WATER PLAN UPDATE 2009
TRIBAL WATER PLENARY
HOSTED BY BIG VALLEY RANCHERIA
January 28, 2008, Lakeport, CA

Final Meeting Review

(1) WELCOME

The first Tribal Water Plenary of the California Water Plan Update 2009 (CWP) was held in Lakeport on January 28, 2008. Tony Jack, Tribal Administrator for Big Valley Rancheria, opened the session by welcoming participants to the Konocti Resort and Casino. Tony expressed his hope that the Plenary would be the first of many activities that integrated Tribal water use into the statewide plan.

Sarah Ryan, Environmental Director for Big Valley Rancheria, also welcomed participants, and expressed her hope that the State would finally hear Tribal voices and incorporate their concerns in the water plan.

Kamyar Guivetchi, CWP Program Manager for the California Department of Water Resources (DWR), then thanked Big Valley Rancheria for hosting the Plenary, and emphasized DWR's belated but genuine commitment to involving California Tribes in defining the issues and solutions contained in the Water Plan. He also read a letter of welcome from Mark Cowin, DWR Deputy Director for Regional Water Planning and Management, to the participants.

Next Lisa Beutler, Executive Facilitator for the CWP and Associate Director of the Center for Collaborative Policy (CCP), introduced herself. Lisa explained that her job was to ensure that all voices are allowed to be at the table and heard in the CWP process. This meant ensuring that participants in the CWP followed some basic ground rules, like not making any decision without announcing this and without achieving consensus, and recognizing that all ideas have value and do not need to be defended or promoted.

The 46 participants then introduced themselves, along with 16 staff from State Agencies and CCP. A full list is provided at the end of this document, along with a glossary of acronyms.

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(2) OVERVIEW OF THE CALIFORNIA WATER PLAN UPDATE 2009

Kamyar Guivetchi then spent 30 minutes providing an overview of the California Water Plan, both historically and for Update 2009. Before beginning, Kamyar noted that related information could be found on the CWP website, <http://www.waterplan.water.ca.gov/>, and that participants could subscribe to the CWP's electronic news service if they wanted to review a one-page weekly update by going to <http://www.waterplan.water.ca.gov/enews/index.cfm>

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History and Purpose

The CWP was first published in 1957 and has been updated eight times since then. In the last decade the Governor, Legislature, and stakeholders have taken greater interest in the document, and recent law requires it to be updated every five years. The last Water Plan, Update 2005, was the first to include Tribal water issues and perspectives. For Update 2009, there is a commitment to expand Tribal outreach and participation, as well as increased discussion of Tribal water interests in the CWP.

The CWP provides a long-range planning framework for California water policy, and corresponding recommendations about the investment of public funds in water activities and projects. It also serves as a major source of information, which involves quantifying current water use throughout state regions and developing new decision-making tools and models. It is important to note that the CWP's recommendations do not automatically appropriate funding, and that the CWP does not contain California Environmental Quality Act evaluations of specific projects.

Update 2005

The Update 2005 initiated a fundamental shift toward greater State involvement with regional and local entities and interest groups in water planning, as reflected in its emphasis on Integrated Regional Water Management (IRWM). Update 2005 also took a more holistic view of water resources, describing issues of equity, economics, and environmental sustainability, as well as more traditional information on water supply and demand. Similarly, it pioneered a portfolio approach to water management that involves over two dozen Resource Management Strategies (RMS, explored further later in the meeting), and the consideration several different future scenarios. The Update 2005 also explicitly adopted the format of a strategic plan, including a vision, mission, goals, guiding principles, and recommendations. Finally, it was based on a collaborative approach to planning that involved over 2,000 contributions and 23,000 hours of dialogue.

The Update 2005 involved three foundational actions: efficient water use, water quality protection, and environmental stewardship. Building on these, it prompted the development of (1) a statewide IRWM program that moved away from single-purpose funding, and (2) renewed efforts to maintain and improve the State's large, interregional water supply, water quality, wastewater, and flood management systems. Propositions 50 and 84, which emerged in parallel with the Update 2005, are supporting the development of numerous IRWM planning partnerships.

With regard to California Tribes, Update 2005's Recommendation 13 emphasized that greater Tribal involvement in the CWP process was essential for success. The Update also included several action items specific to increasing Tribal involvement, including

- engage Tribes at all stages of water planning
- identify and evaluate Tribal water concerns
- work cooperatively with Tribes to ensure potable water supply
- assess water quality for intended Tribal uses
- discuss Tribal water rights, and
- reinstate water source and sewage disposal questions in the US census.

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Update 2009, including Tribal Outreach To Date

Water management is highly fragmented in California. For the first time, the Update 2009 has invited the different State Agencies with jurisdiction over water resources, and the Native American Heritage Commission, to constitute a State Agency Steering Committee. In response to questions, Kamyar explained (1) that the CWP coordinates with federal agencies, and (2) that the purpose of a Tribal Communication Plan was to teach State government how to begin talking with sovereign Tribal nations, but that today's activities did not constitute any type of government-to-government consultation.

With regard to Tribal participation, in 2007 the CWP team sent letters to all California Tribes, including their chairpersons, administrators, and environmental and cultural directors, and invited them to participate in the Tribal Communication Committee (TCC). The TCC is a non-representative body – members represent only themselves, not their tribes, at the meetings – convened to help the CWP develop a communication plan for involving and getting input from California's Tribes. The TCC has met four times since October, 2007, and organized today's Tribal Water Plenary. The TCC hopes to organize, with the direction and participation of Tribal members from across the state, a Tribal Water Summit for the middle of 2009. This would involve the highest levels of State Government and generate proceedings that become an integral part of the CWP.

The CWP also has an Advisory Committee (AC) and hosts numerous regional workshops forums. The AC brings the perspective of diverse statewide organizations, including Tribal organizations, into the CWP. Representatives from the Inter-Tribal Council of California and California Rural Indian Health Board sit on the AC. Regional workshops involve members of the public – including Tribal governments, organizations, and communities – in providing input to the CWP by bringing the process to them. The TCC is seeking advice from all interested parties on how to conduct regional workshops so that they reach and involve Tribes.

Update 2009 Key Activities and Work Products

Kamyar then reviewed the CWP's eight major activities. These include (1) updating its Strategic Planning Elements; (2) updating future scenarios; (3) updating information on climate change; (4) updating the twelve Regional Reports, including information on the quantification of Tribal water resources, and Tribal water needs in the present and future; (5) updating the Resource Management Strategies (RMS), including new flood management strategies; (6) adding Water Portfolio data for the past five years that includes the entire hydrologic cycle; (7) improving analytical tools; and (8) reporting on companion State plans that involve water resources (e.g., from FloodSAFE, Delta Vision, the California Energy Commission, and the California Public Utilities Commission).

The CWP's main reports include an Assumptions & Estimates report, and the Water Plan itself. A draft of the former report has just been released, while a draft of the latter is scheduled for release at the end of 2008, with the final version being available at the end of 2009. In each case, the CWP team is seeking input on how the reports can be improved, including recommendations from Tribal perspectives.

Comments, Questions and Answers

(1) Asked how the CWP relates to CALFED, Kamyar explained that CALFED and DWR have a working relationship, and that CALFED has a representative on the Steering Committee.

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Furthermore, the CWP companion plans will incorporate the outcomes of the Delta Vision process.

- (2) Asked where water quality fit in the CWP picture, Kamyar reiterated that protecting water quality constitutes a foundational action; that six RMS focus on improving water quality; and that the CWP has, for the first time, a Water Quality Work Team that actively involves other State Agencies (the Water Boards, Department of Public Health, and Department of Fish and Game).
- (3) **ACTION ITEM:** In response to a request, Kamyar said he would have the newly-released draft Assumptions & Estimates report brochure and data CD sent to everybody who would like a copy. If you would like a hard copy of the report and CD sent to you, please contact Virginia Sajac, CWP Meeting Planner/Travel Coordinator, at (916) 653-7101 or vsajac@water.ca.gov. Participants may also download the report brochure and data directly at <http://www.waterplan.water.ca.gov/cwpu2009/ae/index.cfm>
- (4) Asked about the mission and composition of the Tribal Communication Committee, Kamyar and Lisa reiterated that the purpose of the TCC is only to help the CWP team develop an appropriate Tribal Communication Plan, and never to discuss policy; that members do not represent tribes; that membership is open to all Tribes; and that the TCC will continue to invite Tribes to give input on the design of regional events and the Tribal Water Summit.

Donna Begay, a member of the TCC, explained that that Committee's purpose is "truly about improving outreach to Tribes of California – reservations, rancherias, allotment lands, urban, rural, you name it, anybody Tribal in CA. We're trying to build a communication network to tell the State of California about our Tribal water issues. It does not stem from the Bureau of Indian Affairs or federal or state or local jurisdiction, it's a blessing and a traditional thing."

Regarding a specific charter, Kamyar explained that now that the TCC has begun to meet regularly, it has started developing one, although its primary focus remains developing a communication plan.
- (5) Asked whether DWR was going to develop policies and procedures appropriate to Tribes, including Tribal access to State funding for water projects, Kamyar replied that State Government has no Tribal consultation policy, and it is up to each agency or department to develop their own. The CWP is hoping that the TCC's Communication Plan will describe how DWR and the Steering Committee should work with Tribes between now and the end of 2009, when the update will be complete. The Communication Plan may also be useful for State funding programs, like the IRWMs and FloodSAFE California.
- (6) Asked whether the policy of the California Environmental Protection Agency (CalEPA) would supersede those of DWR, Kamyar explained that DWR is part of the Resources Agency, which is separate from and not guided by CalEPA. Kamyar also explained that the TCC's Communication Plan would probably not involve the development of formal policy for government-to-government relations. Gita Kapahi, the new Director of Public Involvement for the State Water Resources Control Board (SWRCB, a part of CalEPA), which is part of the Steering Committee, said she would look at how her Board's policy fit with CalEPA.
- (7) Asked whether water issues that involve county governments or the SWRCB were appropriate for the CWP, which is produced by DWR, Kamyar replied yes. The aim of the CWP, he explained, was to inform and provide direction for statewide water planning, and local issues may have statewide implications. The CWP's Regional Reports, he noted, are

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meant to capture regional water issues, including Tribal water issues, that are specific to a certain area.

- (8) A participant commented that he attended the first TCC and was disappointed to learn that its aim was to figure out how to communicate with Tribes. He felt that too much time was being devoted to figuring out how to do this, rather than obtaining substantive input.
- (9) Another participant felt that meetings where people did not represent Tribes was a breakdown in the government-to-government protocols that Tribes had worked hard to establish.

(3) TRIBAL WATER PANEL

Following a short break, three members of the TCC presented their views on why participating in the CWP was important for Tribes.

Randy Yonemura

Randy explained that he has worked on water issues for a long time because water is sacred, and departments and agencies and non-government organizations worked in his Tribe's sacred areas without consultation. He remembers when a local water agency made a silent agreement with the Regional Water Quality Control Board to use the area, and began digging sacred things up. He also wants to make sure that Tribes are eligible for State grants for protecting Tribal places. Indigenous people are repeatedly left out of State planning processes, so he honors that DWR is finally stepping up to the plate.

He just completed a project on the Sacramento River that he has been working on for 12 years, which protects a village site that was being eroded by federal water management practices. He would have to stay in the bush to protect these places, and sleep there regularly. He developed an erosion control and steelhead habitat creation plan using soils and native plants as waterbreaks. A local water and flood control agency then told the local government that the plan would not work, even though he'd been knocking on Robert Matsui's door for five years and gotten study money. Six or eight years later the government came back and, to his heartbreak, did the project at a cost of over \$8 million, while his original proposal only cost \$90,000. So he is happy to be part of the TCC and getting Tribal people to talk to DWR, even before a formal government-to-government process, to let DWR know what the existing problems are, and to begin addressing them from the bottom up. Randy thanked everyone for attending.

Mark Franco

Mark thanked the other members of the TCC for sitting on the panel, and the audience. Mark Franco explained that he had attended Water Plan meetings in the past and never saw Indian people in attendance. While Mark is the headman of the Winnemem Wintu Tribe and can make decisions on the spot, he felt it was essential that all traditional people need to be out and engaged, even without representing their Tribes, because they understood the water and its needs. He felt Tribes must have their water needs included in the plan, and must not be afraid to announce they have plans for a development – whether health facility or housing unit or golf course or casino expansion. If Tribal people do not do this, when water gets allocated in the future their Tribes will not have any.

Mark recognized that for Tribes it was distasteful to go to a State Agency. Tribes are sovereign nations that are equivalent to the highest levels of federal government, so this was a

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step down. “But until we get everyone who’s in a California Tribal Government involved in the process,” he continued, “we’re going to have to continue, and I mean no disrespect to my friends at DWR, but continue to eat on the floor with the dogs because our voice isn’t being carried far enough up. *This* is an opportunity for that to happen, to have your Tribe’s voice included.”

Mark reiterated that the TCC is not involved in consultation – that is a matter between Tribes and the State. But, he asked, “how does the State even know how to get in contact with you?” Letters come in but do not make it to the people who may have concerns. So the TCC, he continued, “is trying to find all the people who need to be involved in the process, your vision-keepers, the ones who keep your traditional ways – that has to be included in this plan, too. If it’s not, those things that we hold sacred will be inundated, destroyed because of rising and falling water, and damaged by infrastructure changes that the Water Plan may call for.”

Mark closed by explaining how important it was for Tribes to educate DWR. “Most of us sitting up here have fought the government just as you have, fought DWR just as you have, and we continue to fight them. But we’ve also come to understand the need that at some point, we need to sit down and talk to these people. It’s like talking to children, telling them over and over again, and it’s frustrating. But I would no more slap my child than slap one of these people because they didn’t get it. Our job is to educate them, to teach them what’s important. If we can’t do that, then we need to work on how we teach.”

Atta Stevenson

Atta thanked everyone for attending. She explained that when she decided to answer DWR’s invitation to serve on the TCC, she came to the table without knowing who would be there, but determined to take leadership. This was because Tribal leaders continue to battle within counties for their water, and she felt this needs to stop. The way this stops is through communication, which requires getting involved and believing in the need to protect water. Her people are from the land and the environment is a reflection of them. So she is not afraid to do this. She appreciates the concern that people need to go back to their Tribal Councils and let them decide whether to support or get involved with the TCC. But, she emphasized, she came as an individual.

In response to an earlier comment, she knew that four mailings went out to all Tribal communities and organization, inviting them to participate. So the formation of the TCC was not a covert action, but was public and inclusionary, as its work continues to be.

She felt DWR had failed historically to notify traditional people about its activities. So the three panelists have been adamant about the need to include traditional knowledge in statewide water planning. “Being a scientist is one thing,” she elaborated, “but living on that land and using water in that sacred way is totally different.” She closed by encouraging all Tribes to stand up and voice their concerns.

Comments, Questions and Answers

- (1) A participant expressed that developing language that allows Tribes to get State funding directly, without relinquishing any sovereignty, was one of the highest priorities. This problem had existed at least since CALFED in the late 1990s, and today it is the same problem.

Mark responded that the problem does not lie with DWR, but with how the bonds were written. He recommended that Tribal people with access to legislators in Sacramento and Washington use those connections to develop draft language, and perhaps it was

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something that Tribes participating in the CWP could draft together. He also noted that Tribal non-profit organizations could access some funding sources, and that participation in an IRWM plan was a way to access funds from Propositions 50 and 84. He felt, however, that IWRM plans needed to establish Tribal hydrologic regions that would allow individuals or consortia to apply.

Atta responded that Senator Barbara Boxer amended a bill to make Tribes eligible for funding devoted to hazardous waste cleanup on or near Tribal or public lands. For legislators to continue stepping up, they needed to hear support from Tribal communities at all levels, not just locally but statewide. It was particularly important, she added, to be explicit about the term “Tribe” and make sure it included all Tribal communities. Finally, she noted that one Tribal water issue that was missing from the table was the preservation of the ocean life that coastal people use for sustainable foods, even if this did not have economic value for mainstream America.

- (2) A participant noticed that no mention had been made of water operators, and recommended that the TCC reach out to Tribal water operators. Operators know the water distribution systems and can provide a full range of information about Tribal water supplies. Perhaps the TCC and DWR could develop a questionnaire.

Randy agreed that these people should be put on the mailing list and be at the next TCC. He encouraged all participants to get involved in the IRWM plans. He has been to IRWM planning efforts all over the state, advocating that they include Tribal governments and people. But only one of these had Tribes participating. Not enough Indians are involved in watershed programs, while their water gets pumped all over the state and Tribal people are forced to drink contaminated groundwater. For him, changing this is the purpose of being involved in the IRWM plans, the CWP, and the TCC.

ACTION ITEM: A representative from the California Department of Public Health noted that they maintain full lists of water treatment and water distribution operators throughout the State; the CWP team was charged with obtaining this list and providing these to the TCC. Interested participants can access the lists directly at <http://www.cdph.ca.gov/certlic/occupations/Pages/DWopcert.aspx>

- (3) A participant explained that he had been involved with Tribal people in developing a policy for the State that covered not just recognized Tribes but over 280 Tribal organizations, every one in California. He felt it each Tribe developing its own policy was a mistake, because it helped the State keep Tribes at each other’s throats. He felt that Tribes needed to get everything written down and to DWR today, so that there was one voice to support the TCC and to present these issues to the State.

Mark Franco closed the session by encouraging those present to get in touch with their relatives or Tribes and let them know about the eleven upcoming Regional Workshops. These were not consultations, but needed Tribal voices. At the same time, Mark encouraged DWR to follow up with the Tribes that attended today’s meeting, and set up one-to-one meetings with each Tribe to discuss groundrules for consultation. He also encouraged participating Tribes to get in touch with DWR and demand such a meeting, because they will show up. In his experience, they drove way out to his small Tribe and sat there for five hours talking about water issues.

(4) WATER GOVERNANCE IN CALIFORNIA

The facilitator explained that navigating California State Government was confusing. During the first part of this session, she presented basic information about the State's general structure. The group would then heard directly from various State agency representatives.

ACTION ITEM: the facilitator promised that the PowerPoint slides she was using would be made available online. These slides can now be downloaded at <http://www.waterplan.water.ca.gov/tribal2/index.cfm> under the January 28 Tribal Water Plenary materials, the "PowerPoint Presentations".

Tribes deal first and foremost with the federal government. Beneath this is California's Constitution, the laws created by the Legislature, and regulations developed by agencies. State government has legislative, judicial, and executive branches. Agencies exist in the executive branch and get their authority from existing laws. Propositions are ways that members of the public, outside of the Legislature, can make laws. Courts can restrict activities based on the State Constitution and laws. In the State Constitution, water is addressed in three areas (water, water resources development, and marine resources protection), and several of the 29 codes that constitute California Law. This means that many State Agencies deal with water. In a list of Companion State Plans provided in the workbook, over 100 plans dealing with water are noted. Inviting all these agencies to participate on the CWP Steering Committee was a way of making sense of this.

As part of this integration, the facilitator continued, DWR intends to begin working with other State agencies to incorporate Tribal perspectives and information in the CWP. This is why the CWP team invited several high-level State agency representatives to come to the Plenary. The facilitator then asked each representative to explain what they were doing and thinking about Tribes and water, and what they were hoping could happen as a result of the CWP process.

Gita Kapahi, Director for Public Involvement, State Water Resources Control Board (SWRCB)

The SWRCB is a branch of the California Environmental Protection Agency (CalEPA). Gita explained that the mission of the SWRCB is to protect beneficial uses of water, water rights, and water quality. The SWRCB has a Division of Financial Assistance that provides loans and grants for various water-related activities. It also has nine Regional Water Quality Control Boards that cover the entire state, each with a "Basin Plan" (Water Quality Control Plan).

With regard to the CWP, Proposition 84 requires the SWRCB will work to update and incorporate these Basin Plans into the CWP. (Proposition 84 also sponsors a new pilot grant program to provide assistance to local agencies that update their general plans to incorporate Watershed Protection efforts into local land use policy.) The Board also has a "303D" listing program that identifies and tracks water bodies whose quality is threatened or impaired, and uses this information in the preparation of Basin Plans. In both cases, the Board would like more dialogue with Tribes to ensure that the information is accurate.

In response to a later request for specific examples of positive interaction between Tribes and agencies, Gita noted that CalEPA had five pilot environmental justice projects in different parts of California. She also informed participants that if they felt their concerns were not respected by a Regional Water Quality Control Board, they could appeal a decision to the SWRCB.

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Cuahtémoc Gonzalez, El Dorado Miwok, and the Governor's Office of Planning and Research (OPR)

OPR has a limited role in water planning, Cuahtemoc explained, but is responsible for updating the State's General Plan Guidelines for local governments. General Plans are local government policy documents that address future development, and discuss land use, open space conservation, circulation, and other issues. In the conservation element of the Guidelines, local governments can obtain advice about how to plan for current uses of water and future needs for water. An addendum contains guidelines for consulting California Native Americans during local planning for the purpose of protecting Traditional Tribal Cultural Places, and can be found at <http://www.opr.ca.gov/index.php?a=programs/tribal.html>

With regard to the CWP, the General Plan Guidelines includes information on Urban Water Management Plans. General Plans generally extend 20 years into the future, and OPR encourages local governments to develop a UWMP in order to anticipate their water needs during this period. The role of OPR is to promote a good working relationship between Tribes and DWR in these efforts, particularly because OPR is one of the few agencies that has developed guidelines for consulting with Tribes. Kamyar noted that in some places General Plans were beginning to be integrated with Integrated Regional Water Management plans.

In response to a request for specific examples of positive interaction between Tribes and agencies, Cuahtemoc explained that OPR's relationship with Tribes has developed significantly since SB 18 was signed into law in 2005. This directed OPR to create the aforementioned Tribal consultation guidelines. This involved extensive Tribal consultation, including several regional meetings across the State, in order to identify how Tribes wanted to be contacted. It also involved nearly 30 training sessions that brought local governments and Tribes (including non-Federally recognized ones) together to learn about SB 18 and determine how to best implement it. A participant noted that regional meetings did not constitute consultation under President Clinton's Executive Order 13175 (2000), which specifies that consultation involves Tribal officials, i.e., "elected or duly appointed officials of Indian tribal governments or authorized intertribal organizations." The full text of EO 13175 can be found at <http://www.epa.gov/fedrgstr/eo/eo13175.htm>

Carl Lischeske, California Department of Public Health (CDPH)

As a public health regulatory agency, CDPH has regulatory jurisdiction over all the public drinking water systems in California. It delegates responsibility for smaller water systems to the Counties. CDPH's goal is to make sure that public water systems supply an adequate and reliable supply of safe water to Californians. CDPH administers various loan and grant programs, some of them in cooperation with DWR. The Department also has an operator certification program for drinking water treatment and distribution systems, and a treatment device certification process. Lastly, it reviews proposals for recycled water use to make sure this does not pose a threat to public health.

CDPH is interested in the CWP because it is a foundation for adequate and reliable water supplies for California communities, including Tribal communities.¹ Other parts of the CWP also affect CDPH's mission, including the use of recycled water, grey water systems, and desalination of water from aquifers or the ocean. All of these sources were traditionally

¹ The SWRCB regulates and permits surface water diversions, the Regional Boards regulate water quality and treatment of discharges, and CDPH regulates drinking water treatment.

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considered too poor to provide drinking water, but are all being revisited by the CWP, so CDPH is very interested.

Cynthia Gomez, Tule River Yokut, and Native American Liaison Branch Chief, California Department of Transportation (Caltrans)

Caltrans is a part of the Business, Transportation, and Housing Agency (BTH), which has a representative on the CWP Steering Committee. BTH is one of the largest State Agencies, and Caltrans has over 20,000 employees working in 12 districts. Caltrans has a departmental-level policy to work with Tribal governments that includes consultation and participation. The Department of Housing and Caltrans also have programs that seek to enhance planning and the environment at the regional level, like the Regional Blueprint Planning Program, which seek Tribal participation.

Growing up in a Tribal community, Cynthia learned how important is to know when to get involved or not. In the past ten years, she has seen State regulations provide more opportunities for Tribes to be involved when they want to be involved. The CWP process is an example of this, and she felt it was a good time for Tribes to tell the State how they want to be involved in water planning. With regard to Caltrans, her agency is required to produce a California Transportation Plan if it wants to receive federal funding. Caltrans is particularly interested in Tribal consultation because it is integral to the Plan. Such consultation would detail how Caltrans will work with the various members of the State and Tribal governments on transportation, including the protection of water and other resources. Storm drainage is a major concern, along with the protection of Tribal sites that involve water. Cynthia felt that the CWP provided an important opportunity for individual Tribes to determine how they want to protect not just Tribal sites, but adequate Tribal water supplies as well.

In response to a request for specific examples of positive interaction between Tribes and agencies, Cynthia explained that it was a federal statutory requirement for States to consult with Tribes in their transportation plans since the 1991 federal Intermodal Surface Transportation Efficiency Act.² When she was hired in 1999, she met repeatedly with the Governor's California Transportation Committee. After a series of workshops and a report to the Legislature, the Transportation Committee required Caltrans to change its planning guidelines to incorporate consultation with all Tribal governments. Today, Caltrans reviews California's 45 transportation plans, and comments on the efforts of metropolitan or regional agencies to consult with Tribes. In general, these consultation efforts have not met the expectations of Tribes, and her office is working to improve the process. At the same time, Caltrans is notable because it has a departmental policy. This took two years to establish, and reflects the Director's consistent support for recognition of Tribal sovereignty. Caltrans has an 18-member Native American Advisory Committee, which advises on State as well as federal issues. A representative from the Director's office attends each of their meetings, and provides a direct communication channel between the Committee and the Director. In general, Caltrans continues to try and make its funding directly available to Tribes.

Chris McCready, FloodSAFE California

FloodSAFE California is a recent initiative based on flood management activities that DWR has engaged in for a long time. The difference is that the initiative is focused on bringing more

² Also see the 1998 Trans. Equity Act for the 21st Century (TEA-21), and for State DOT obligations see the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

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people into the process, making them more aware of the flood protection services they have or need, talking about how to manage floods when they do occur, how to manage floodplains to minimize flooding, and so forth. FloodSAFE California is excited to be working in the context of the CWP and beginning to integrate water and flood management activities. A list of FloodSAFE grant programs is included in the Tribal Water Plenary workbook (distributed at the meeting and available at <http://www.waterplan.water.ca.gov/tribal2/index.cfm> under the January 28 Tribal Water Plenary materials, the “Agenda and Handout Packet”), although Chris noted that Tribal eligibility was an issue that would require additional work to resolve.

With regard to the CWP, water and flood systems are integrated in nature so DWR and FloodSAFE California want to integrate them in planning and management. One aspect of this is data gathering. Tribes could help FloodSAFE understand how lands have flooded historically, and how to take care of and protect culturally important areas, as well as people and public safety. FloodSAFE would like to partner with Tribes in these efforts, and Chris viewed this session as an important chance to establish relationships and educate one another. Chris emphasized that while FloodSAFE may develop guidelines and regulations, it does this through obtaining stakeholder feedback, and Tribes are welcomed and encouraged to provide such input.

Kamyar Guivetchi, California Department of Water Resources (DWR)

DWR has just under 3,000 employees that work statewide, including four district offices. The Department’s main focus is on planning and local assistance, and district offices provide technical assistance to local governments, water agencies, and communities. Most of DWR’s work involves operating and maintaining the State Water Project. Another large part of its work is the CWP, which involves planning for water and flood management in local communities, doing data collection, and making this available to interested stakeholders. DWR has the small but important responsibility of regulating the safety of jurisdictional dams in California. It also permits encroachment on the property along the State Water Project. DWR is often asked to play a major role in developing the guidelines for administering State grant funding, and major water bonds include Propositions 13, 204, 50, and most recently 84. State law also requires public urban water agencies above a certain size to submit to DWR an Urban Water Management Plan every five years, and provides guidelines for these as well; these are beginning to be integrated with regional planning efforts.

Kamyar also noted that with regard to flood management, the 2003 Paterno Decision found the State to be responsible for properly operating the parts of the Central Valley flood management system that had been created by the US Army Corps of Engineers. This motivated the creation of FloodSAFE, and Kamyar hopes it will lead to a State Flood Project.

Finally, Kamyar noted that Water Quality Control Plans had been included in the CWP in the early 1970s, following the Porter-Cologne Water Quality Control Act of 1970. But they were not included in the next update. After the CWP 2005, DWR approached other State agencies to see if they would be willing to join a Steering Committee that could address issues like this, and they agreed. Kamyar believes that the CWP 2009 will be a better product because participating agencies have recognized that they must all contribute to integrated water resource management efforts, particularly because pressures on water are growing.

Comments, Questions and Answers

- (1) A participant said she was happy that today's dialogue was taking place, and thanked the panelist. She also expressed concern that Tribal allotment lands seldom had representatives at public processes, and she did not see any in the audience today.
- (2) A participant asked whether DWR received federal funding for levee repairs and maintenance. Chris McCready, DWR, responded that federal funding for these purposes is generally for the Central Valley Project, which includes the levees involved in the 2003 Paterno Decision. Historically the federal government has paid about 70% of the cost of these facilities, with the State and locals paying the remainder. Federal money is not available for grant funding through DWR, only the cost of maintaining project facilities.

Another participant said that he believed that DWR was receiving federal money for other purposes as well, and that Tribes should therefore have access to more DWR funding. None of the State representatives knew if this was true.

ACTION ITEM: DWR was asked to explore this issue and verify whether the Department received federal funding for other purposes. Marta Burg, Attorney and Tribal Consultant, offered to also look into the issue.

- (3) A participant noted that many responses have been about tension between the State and Tribes, and requested specific examples of positive interaction between Tribes and agencies. Responses from specific representatives are documented in the preceding passages.

(5) TRIBAL WATER ISSUES I: RESOURCE MANAGEMENT STRATEGIES

The overall purpose of this session was to begin identify the range of Tribal concerns about water resources. The facilitator recognized that different Tribes would have different concerns. She also emphasized that this session was meant to be an initial exploration, and that participants would get copies of today's work for them to take back to their Tribes for further discussion and refinement.

In order to provide a foundation for the session, Kamyar Guivetchi gave a brief overview of the CWP's Resource Management Strategies (RMS) and what they are intended to accomplish. The strategies fall under six major categories:

- 1) reduce water demand
- 2) improve operational efficiency and transfers
- 3) increase water supply
- 4) improve water quality
- 5) practice resource stewardship
- 6) flood management

Detailed information on strategies for the first five topics can be found at <http://www.waterplan.water.ca.gov/strategies/index.cfm>. Kamyar added that Tribal water-dependent cultural practices were an issue which could constitute a new strategy for resource stewardship. Kamyar also reiterated the four flood management strategies (the sixth topic) that had recently been proposed: to preserve natural floodplain resources, to reduce susceptibility to flood damage, to reduce impacts of flooding (including emergency planning and response), and to manage flooding (through the use of levees and water operations).

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Comments, Questions and Answers

- (1) A participant asked where water banking fit. Kamyar replied that this would go under increasing water supply, specifically the strategy for conjunctive management and groundwater storage.
- (2) A participant asked how precipitation was enhanced. Kamyar explained that clouds are seeded with silver iodide to coalesce water.
- (3) A participant asked whether any estimate existed of the total value of all the water resources in California. Kamyar did not know of any such estimate, but noted that supplies sold to State Water Project contractors only amounted to 15% of the State's water supply. Public and private water agencies must also be counted. There will be a wide range of costs depending on the activity for which water is bought, from whom it is bought, and what kind of an agency is doing the buying. Generally urban agencies are willing to pay more than agricultural agencies.
- (4) A participant asked whether State funding was focused on the RMS. Kamyar replied that this was the trend but not absolute. In particular, Propositions 50 and 84 support the development of Integrated Regional Water Management Plans (IRWMPs), because the basis of IRWM planning is to not only draw multiple entities together, but to consider an array of strategies that they must invest in to create their desired future. Kamyar explained that water agencies have increasingly recognized that working together provides greater water supply reliability because different areas can trade groundwater, surface water, and surplus wastewater.

ACTION ITEM: The participant suggested that the RMS should be revised or redefined to include Tribal needs and concerns, so that future funding is available to Tribes. Kamyar agreed. The participant further suggested that it would be most fruitful to have Tribal needs and concerns worked into multiple strategies, rather than just being called out in a lone Tribal strategy.

- (5) A participant then explained that he had participated in the CWP 2005, and his major concern was that the CWP 2009 "has teeth" – has something that forces State agencies to pay attention to Tribes. He related the story of a recent conflict over water in Clovis, where a rancher transferred large amounts of water to a new development. His Tribe watched the water table drop ten feet, but the SWRCB did not acknowledge the Tribe's concerns, and they fought. He would much rather work with the SWRCB. His point is that after five or six years of sitting at the table, his Tribe had gotten nothing out of the experience, because no State agency was forced to pay attention to the Tribe's concerns.

Kamyar explained that during the CWP 2005, DWR had realized that many comments and recommendations involved issues over which other State agencies had jurisdiction. The purpose of creating a State Agency Steering Committee for CWP 2009 was to create a space where these agencies could hear about water issues and recommendations, including Tribal needs and concerns.

- (6) A participant then shared a story about increasing water supply and watershed management in his area, the Sierra National Forest. In the past Tribes had used fire to manage their forests and meadows, but today they were forbidden to burn or to log the trees that were choking their meadows. He explained that streams start in the meadows that are now dying, he knows this from when he grew up running cattle in the high country with his father. He suggested that the CWP add a fire management strategy that would allow Tribes to recover their

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meadows, which include the grasses that Tribes use for basket weaving and are suitable for cattle.

Kamyar agreed that forest management and meadow restoration were important to water supply. He gave the example of Plumas County's IRWMP, where they realized that the U.S. Forest Service owns about 40% of the county. The County partnered with the USFS to develop the IRWMP, and the plan now includes forest management and meadow restoration as major elements.

ACTION ITEM: A participant asked if prescribed burns were part of this plan. Kamyar did not know, but promised to follow-up with the Plumas County contact for the plan. That person is Brian L. Morris, General Manager, Plumas County Flood Control and Water Conservation District, 520 Main Street, Room 413, Quincy, CA 95971, telephone (530) 283-6243, email brianmorris@countyofplumas.com. Brian has provided a detailed response that is included at the end of this document under Appendix A. Additional information can be found at the Upper Feather River IRWM Plan website <http://www.countyofplumas.com/publicworks/watershed/index.htm>. The DWR Funding Area Coordinator is Craig Cross at (916) 651-9204, email to ccross@water.ca.gov. The contact information for IRWM contact persons throughout the state can be found at http://www.grantsloans.water.ca.gov/grants/implementation/prop84/integregio_fundingarea.cfm

The facilitator then ended this portion of the session. She mentioned that the last comment was a perfect example of what the CWP 2009 was looking for – an excellent idea that is not in the CWP 2005 was put on the table for discussion, will be brought back into the process for further discussion, and will probably be included in the CWP 2009.

ACTION ITEM: In response to a later request, the facilitator said that the names, positions, and contact information for the representatives would be included in the notes (they were not on the agenda because not all representatives had been confirmed yet). This information is listed at the end of this document, and can also be found at <http://www.waterplan.water.ca.gov/tribal2/index.cfm> under the January 28 Tribal Water Plenary materials, the "Contact Info of Tribal Water Governance Speakers". Lisa also noted that the information for all State Agency Steering Committee members was already available online, at <http://www.waterplan.water.ca.gov/sc2/members/index.cfm>

(6) TRIBAL WATER ISSUES II: MIND MAPPING

The facilitator used the last example as a transition to the second portion of the session on Tribal Water Issues. During this time she continued to solicit ideas and comments (no longer questions) from the participants, while an assistant drew a diagram of key concerns on a large piece of paper taped to the wall – a so-called "mind-map".

1. Cultural Resource Protection

A participant explained (1) that Tribal people need access to the areas where they used to gather plant materials – a practice which keeps watersheds healthy, she noted. In any place where there is a burial ground or other archaeological site, one can assume that Tribes used and managed the area's resources. (2) Even in cases where Tribes do have access to lands and waterways, however, they oftentimes do not have management authority over the watershed. (3) When they do work with State and local governments in such efforts, the Tribes often bear the burden of

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funding that effort. So (4) she wants there to be a blanket policy that mandates State and local agencies work with Indian people to develop a cultural resource protection program that benefits the watershed, and that they bring their own share of funding and responsibilities, whether it's a co-management agreement or something else.

2. Aboriginal Territories

A later participant added that cultural uses extend to much larger stretches of land than current Tribal land bases. So efforts to protect cultural resources and cultural practices must be defined within these aboriginal territories.

3. Companion State Plans

A participant looked at the list of Companion State Plans in the workbook and felt insulted: in some places, the most recent date for a plan is 1998, and it also is noted that the document is not comprehensive nor verified for accuracy. The facilitator explained that the reason for saying it is not verified is because this document was compiled by the Governor's Office, but they didn't have the opportunity to survey State agencies to see if they had updates. So the CWP team wanted participants to have the best materials available, but also to recognize that there may be more recent information. Second, the reason why it is not comprehensive is because the CWP Steering Committee only represents 19 State agencies, and again the CWP wanted participants to have materials but recognize that other plans might exist in other, non-partner agencies. Finally, the reason why a plan may say 1998 is because many plans last for considerable time and may not have been updated since then.

ACTION ITEM: The participant requested that the CWP work harder to make this list of Companion State Plans current. The facilitator agreed that this would be done.

4. Water Impoundment

A participant expressed that 85% of streamflows is impounded upstream before it even reaches Clear Lake. This means that there is less water to carry the same pollution loads. Worse, impoundment agreements are established by the Agricultural Commissioner without public notice and input. She wants to see that permits for impoundment are not issued without public notice and input from downstream users, including Tribes.

5. Triggers – CEQA/NEPA, Funding, Consultation, Archaeology

A participant suggested that a list of "triggers" – events or conditions that legally require certain actions to be taken by the State – could be compiled for the topics mentioned and other related topics.

6. California Indian Affairs Agency

A participant suggested that the State needs a cabinet level Indian Affairs Agency. The Governor needs to issue his Indian policy that details how the State is to work with Tribes, this would save Tribes the need to constantly reinvent the consultation wheel and also help State agencies.

A later participant supported this point. He explained that the results of these efforts are often just read and then thrown away. He emphasized that it was critical to get some guarantee that today's activities would go further up the ladder.

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Another participant commented that such an agency would improve communication, because the Governor often calls in department heads as advisors, so if a Tribal person were there who could communicate what Native American needs were, and communicated this to the Governor regularly, that would advance today's concerns.

7. Upstream Risks

The same participant noted that after the fires in Southern California last fall, a friend who works for DWR's Burn Response Unit learned that many Tribes are unaware of water district activities and associated risks upstream. She felt that Tribes need to have a better understanding of these activities, because they involve dam safety inspections and reservoir safety.

8. Air Quality Boards (continuing Fire Management and Meadow Restoration from earlier)

A participant stated that Regional Air Quality Boards must also be involved in the CWP because they are often the ones saying "No" to Tribal efforts to use fire and restore meadows.

9. Safe Fish Consumption Rates and TMDLs

A participant noted that the Total Maximum Daily Load (TMDL) for Clear Lake is partly based on fish consumption rates. However, these rates as U.S. EPA default values, and are not the correct rates for Native Americans. The corresponding TMDL/water quality calculations must be improved by deriving numbers from the people who actually eat the fish, rather than just using a hopeful figure! The existing rates are not representative, and also make the TMDL misleading – cleanup levels are set at a certain point, but in reality these levels are still unsafe for people.

A later participant added that comprehensive studies of Tribal headwaters of the Feather, Yuba, Bear, Stanislaus, and American Rivers had not been conducted. Another participant noted that California State University – Sacramento was conducting similar studies with Tribes.

Fraser Sime, DWR Northern District, clarified that DWR has been gathering water quality information for the 13 northern California counties within the District since the mid-1960s. This includes gathering regular ambient data monitoring at thousands of stations dealing with surface waters, lakes, Tribal areas, and groundwater. Fraser expressed that his office would be happy to respond to any requests for such water quality information.

The participant later clarified that his concern was that Pacific Gas and Electric did not study invertebrate populations in the North Fork Feather River watershed, and that he had asked DWR to conduct such comprehensive studies.

10. Weirs, Dams, and Archaeological Sites

A participant explained that dams and weirs impair the movement of salmon and other native fish, and destroy their spawning grounds. He wanted the CWP to contain strategies for mitigating these effects on fish and eels and other creatures that move through these impounded waters.

A later participant elaborated this point. He said his Tribe must constantly go to meetings and tell agencies that the water is Tribal water. He is also an archaeologist and Native American Monitor, and has been fired in the past because he found Tribal materials in a proposed sewage plant site, and the site was then destroyed. One area alone has over 100 sites that are being destroyed. His Tribe has gone and documented the destruction of the past 55 years, and is working to make people realize what 40 years of re-licensed operations will do. Southern

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California Edison refuses to change its management practices, however. The other agencies that are involved – the USFS, Federal Energy Regulatory Commission (FERC), 25 stakeholders, and the SWRCB – do not want to acknowledge that sites have already been destroyed and more will be destroyed. So legislation and laws exist, and Tribes come to the table and fill up various boards, but what happens when they leave? He felt putting these concerns in the CWP was a way for Tribes to get more out of their activities in the future.

11. Tribal Sovereignty

A participant expressed that State agencies must recognize that when they are working with a Tribe, that Tribe is a sovereign nation. This needs to be better clarified and defined in water management efforts, so that State agencies recognize they are involved in government-to-government relationships.

12. Community Health

A participant explained that health was a crucial topic because it touches on so many different areas. For Tribes that depend on rivers, they will fish heavily and derive a huge amount of their subsistence from the water. Ceremonies and religious practices are also part of community health, and are conducted on or adjacent to rivers and interact with the water in that river.

13. “Teeth” and Mandates (see question #5 under Tribal Water Issues I)

A participant reminded others that Kamyar had explained that the CWP does not create mandates for State agencies. He suggested that Tribes work on making their recommendations into mandates. It was good to get issues written down, but there needs to be something that Tribes actually take to the Governor and can say, “This is what the Tribes have said, this needs to be acted on.”

The next participant agreed that this was important, and suggested that if there is a general consensus of the participants, that a document or statement could be forwarded to the CWP Public Advisory Committee to convey that message.

The facilitator later noted that a Tribal Water Summit would provide another opportunity for bringing these issues to the highest levels of State government, particularly regarding agency mandates.

14. Pesticides and Other Water Contamination

A participant explained that in many counties, farmers use pesticides on grapes and do not consider how they affect the water and air quality of downwind and downstream neighbors in other counties. There is no sense of a county neighborhood system. They claim that this is their water and they will decide how they will use pesticides. But Tribes move about to gather and harvest fish, and have many cultural areas. So where is the law enforcement of pesticide regulations? Tribal and public lands are contaminated, but farmers just get a slap on the wrist. The same thing is occurring with methamphetamine laboratories in Northern California, where drugmakers are contaminating Tribal and public forest lands. Law enforcement is not doing anything. She stressed that Tribes must develop mechanisms or mandates for State agencies to make sure those laws are enforced.

15. Agricultural Land Management

A participant added that she felt it was misguided to include agricultural land management as a Resource Stewardship strategy. Conventional agricultural practices, she explained, douse the land with chemicals, contaminate the water and contaminate the air. If this strategy is to be kept in the list, then there need to be much stricter laws about what chemicals are used on agricultural lands and roadside spraying.

16. Roadside Spraying

The same participant added that roadside spraying also threatens public health. After roads are sprayed no signs are posted telling Tribes to not gather materials at this time, and people get sick. Entry might be restricted, but no signs are posted. Roadside spraying should be eliminated.

17. Water Transfers

A participant expressed that if the State was engaging in in-state water transfers, then Tribes should be able to benefit from these activities as well. So plans to transfer water must include Tribes and protect the economic value of their resources.

18. Inter-Tribal Communication

A participant noted that Tribes are affected not only by local, State, and federal activities, but by international markets for water and other resources, and that California's native people have always been global citizens. With regard to inter-tribal communication, he wants to encourage Tribes to move from a reservation mentality to creative understandings of how traditional principles can be applied today. So perhaps a precedent could be set for how a Tribe with a source of water could work together with a Tribe that needs water. He said that this was how Yurok communities in the 1930s, 40s, and 50s had defeated State plans to flood their communities. This is why it is important, he felt, for Tribes to create regional or Tribe-to-Tribe agreements or compacts when appropriate.

19. Privatization of Water, and Groundwater Regulation

Building on this, a later participant noted that nothing in the CWP talks about the privatization of water. Bottled water companies often exploit springs that are in Tribal areas, and this is becoming a big problem. But there are no groundwater regulations, nobody wants to confront the issue even though companies are sinking wells and sucking out groundwater, sometimes taking so much water from alongside rivers that the rivers themselves run dry. So the need for the regulation and monitoring of groundwater should be included in the Tribal recommendations.

A later participant agreed that groundwater regulation did not exist in California. But many Tribes live off groundwater. When corporate farmers or bottling companies pump all that water out, often from sacred springs high in the mountains, will Tribes have enough money to sink their wells another 700 feet? And what is this doing to the earth? When you pump all that groundwater you're also extracting all the chemicals and carcinogens. The related issue is that because taking water from a river is restricted, many people drill wells next to the river and pull the water out from there. In several areas this has dried out the rivers. Regulations must be enacted for the State of California.

20. Allotment Lands and Inter-Tribal Communication

A participant noted that more than five tribes in the Kern Valley have allotment lands and work well together, and even are beginning to work better with surrounding communities. She felt it was important for Tribes to start looking at water planning in this way, and that Tribal non-profit organizations could help with the development of community water plans. This was one way to address issues involving allotments. She felt it was important that such plans involve collaboration not just with State government, but also the Indian Health Service and Bureau of Land Management and others that have roles to play. Water planning must no longer be siloed.

21. Agriculture, Excavation and Erosion Control

A participant noted that people come to the Sierras and foothills and pull up rocks that are parts of milling stations or other sites. There are no regulations preventing this, other than the federal Archaeological Resources Protection Act of 1979, which protects archeological resources and sites on public (federal) lands and Indian lands. He felt that the equipment and individuals from DWR and other State agencies that move any types of rocks for water projects and facilities must be watched and regulated.

A participant added that gravel pits and mines claim they are working to protect salmon, yet often degrade riverbeds and spawning grounds.

22. Precipitation Enhancement

A participant expressed concern about whether seeding clouds with silver iodide to enhance precipitation was a safe practice, or whether this involved or created toxic materials.

The facilitator closed this session by explaining that all of the preceding information would be written up and posted on the internet for participants to review. She added that if participants would like hard copies of the resulting materials sent to them that they should make sure staff know exactly where to send this. She also explained that this was meant to be an initial discussion, and that Tribes would have more chances to further discuss and refine these ideas. She recognized that Tribes needed the ability to bring this information back to their own Tribes and see what their Tribes did and did not agree with. Even though this was the beginning of the process, she noted that the CWP team had already heard about things that need to be included in the CWP 2009, like the use of fire to manage forests and meadows for water supply. No decisions have been made, and everything remains on the table.

(7) NEEDS, NEXT STEPS, and CLOSING

Tribal Communication Plan

The facilitator reminded participants that the Tribal Communication Committee had started developing a Charter, and wanted participants to see their initial draft of a Tribal Communication Plan – to outline the basic issues, audiences, goals, and objectives. This included a communication profile with different elements – key messages, materials, communication channels, and potential partners. The draft Plan also includes performance measures for evaluating progress.

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Water Plan Introductory Brochure

Before continuing, the facilitator asked whether the CWP introductory brochure, which had been handed out earlier in the day, was helpful. Participants said it was.

ACTION ITEM: The facilitator said that the brochure would be made available on the website so that other people could access and print it. The brochure is available at <http://www.waterplan.water.ca.gov/tribal2/index.cfm> under the January 28 Tribal Water Plenary materials, the “Brochure: Overview of the California Water Plan Update 2005”.

Regional Workshop Dates and Locations

An assistant facilitator, Judie Talbot, then explained that DWR conducted a first round of Regional Workshops last fall, which provided an overview of the CWP like today. The second round will occur in March and April. To date, these Regional Workshops and the CWP’s Regional Reports have not captured Tribal needs and concerns well. DWR is encouraging all Tribes to participate in these workshops and make their voices heard at a regional level, where water districts, county planners, environmental justice groups, non-profit organizations, and State agencies can learn about Tribal issues. She asked participants to suggest ideas and make comments for improving Tribal participation and the Regional Workshop format by filling out the attached communication profile. That is, what materials should be sent out? How should DWR communicate with Tribes? Who specifically should DWR talk to? Participants were invited to continue submitting ideas and suggestions in the weeks ahead.

The lead facilitator reiterated that DWR would be happy to have individual meetings with Tribes that requested this, and that it would be a great opportunity to have a Tribe host a Regional Workshop.

A participant noted that her Tribe straddled two regions – its water originated in one, while Tribal people lived in another. She asked which workshop she should attend, and whether information from one Regional Workshop could feed into another region’s report. Kamyar clarified that each Regional Report has a section called, “Impacts with Other Regions,” because the CWP recognizes that regions are interconnected. He suggested that the participant’s Tribe might want to attend the workshop in the region where people reside, and explain the connections that existed with the source water region.

Several participants turned in worksheets regarding communication strategies for the Regional Workshops. All emphasized that the communication objective was to increase Tribal involvement in raising awareness of Tribal issues and concerns through the Water Plan. The importance of water and the need for data on Tribal water needs should be part of the message. Support materials should include goal-oriented documents that help clarify issues and decision timelines.

Methods for getting the word out about Regional Workshops should include email, regular mail, phone calls, and announcements at other meetings. A Tribal water meeting either before or after the workshops would be a good idea. One participant offered to assist in helping find a Tribal sponsor for one of the workshops.

ACTION ITEM: The participant requested that this issue – the challenge of Tribes and Tribal resources straddling different hydrologic regions – be added to the Mind Map. Kamyar added that another challenge is that the regional boundaries of State agencies often do not overlap, like those of DWR and the SWRCB. Both of these items have been added to the Map, which is available at <http://www.waterplan.water.ca.gov/tribal2/index.cfm> under the January 28 Tribal Water Plenary materials, the “Mind Map”.

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ACTION ITEM: Several but not yet all workshops now have dates and locations, which can be found at the end of this document, with the most up-to-date information being available at <http://www.waterplan.water.ca.gov/regional/workshops/index.cfm>

Proposition 84 Funds

A participant asked whether Proposition 84 funding that was allocated to a region would be reallocated to a different region if that money was not spent within a certain time. He was particularly interested in money allocated to the Bay Area being re-allocated to the headwaters that supply the Bay Area.

Kamyar explained that funds allocated to different areas would not be taken back, but that some money was specifically available for areas of origin. He also explained that the Governor and Legislature were currently working on the guidelines for distributing Proposition 84 funds, which will begin to be disbursed in July. However, changing the initial allocation of funds to different areas would require changing the bond measure.

Tribal Water Summit

Kamyar noted that the intention was to use today's Plenary as a starting point for identifying Tribal water needs and concerns. He felt this was the first step toward a Tribal Water Summit in mid-2009. He believed that such an event would be more successful to the extent that DWR and California Tribes worked a lot beforehand to identify and craft agreements that could be made at the Summit. DWR would work to bring State agencies and the Governor into the process. At present, no process existed for getting from today to the Summit. This was something he hoped participants would provide ideas and suggestions on, and noted that the Tribal Communication Committee would also continue to help DWR for such an event.

Asked how the Summit would fit in with the CWP, Kamyar explained that a public review draft of the CWP 2009 would be available at the end of 2008, and a final CWP at the end of 2009. So if a Summit were held in mid-2009, the proceedings and any decisions that came out of this would be included in the CWP 2009 as part of the final plan. He clarified that he viewed a Summit as a parallel yet broader and more encompassing activity than the CWP, so proceedings and decisions would be included, but other outcomes of the Summit might extend beyond the CWP.

The facilitator stated that good examples of this were the proposal for a State Indian Affairs Agency and for State agency mandates, which are bigger than the CWP but could be confirmed at the Summit if Tribes worked to lay the foundation for this.

Kamyar continued that he expects that in the months ahead a planning committee will need to be formed for the Summit, which would involve Tribal members and State members identifying and working through all the content, connections, and communications between them and the Summit.

A participant noted that the last Tribal Summit in California was for health issues, in 1999. Governor Davis did not show up. She stressed that the Summit and associated proposals must involve the highest levels of government, not just liaisons. She also emphasized that Tribes must think carefully about what they want the Summit to produce and what they will do with these results; very little has changed in California since the Tribal Summit on health. She expressed that planning for the Summit could involve the TCC, but that they should not bear all the responsibility for preparing this – other Tribes and Tribal organizations must get involved.

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In response to a question about what the relationship was between the TCC and today's meeting, the facilitator reiterated that the TCC had helped identify appropriate topics, activities, and materials, but the larger meeting involved significant support from Sarah Ryan, Big Valley Rancheria, and the Regional Tribal Operations Committee.

Closing

The facilitator thanked Sarah Ryan, RTOC, all the participants and presenters, the TCC members, the assistant facilitators, and the staff from DWR, including Kamyar Guivetchi and Barbara Cross, DWR's Government and Community Liaison, for their work in making this Plenary a success.

(8) RECAP OF ACTION ITEMS

- (1) **ACTION ITEM:** In response to a request, Kamyar said he would have the newly-released draft Assumptions & Estimates report brochure and data CD sent to everybody who would like a copy. If you would like a hard copy of the report and CD sent to you, please contact Virginia Sajac, CWP Meeting Planner/Travel Coordinator, at (916) 653-7101 or vsajac@water.ca.gov. Participants may also download the report brochure and data directly at <http://www.waterplan.water.ca.gov/cwpu2009/ae/index.cfm>
- (2) **ACTION ITEM:** A representative from the California Department of Public Health noted that they maintain full lists of water treatment and water distribution operators throughout the State; the CWP team was charged with obtaining this list and providing these to the TCC. Interested participants can access the lists directly at <http://www.cdph.ca.gov/certlic/occupations/Pages/DWopcert.aspx>
- (3) **ACTION ITEM:** The facilitator promised that the PowerPoint slides on Water Governance in California that she was using would be made available online. These slides can now be downloaded at http://www.waterplan.water.ca.gov/tribal2/docs/01.28.08/state_agency_water_governance-012808-v1-lb.pdf
- (4) **ACTION ITEM:** DWR was asked to verify whether the Department received federal funding for purposes other than maintaining the Central Valley flood management system. Marta Burg, Attorney and Tribal Consultant, offered to also look into the issue.
- (5) **ACTION ITEM:** A participant suggested that the RMS should be revised or redefined to include Tribal needs and concerns, so that future funding is available to Tribes. Kamyar agreed. The participant further suggested that it would be most fruitful to have Tribal needs and concerns worked into multiple strategies, rather than just being called out in a lone Tribal strategy.
- (6) **ACTION ITEM:** A participant asked if prescribed burns were part of this plan. Kamyar did not know, but promised to follow-up with the Plumas County contact for the plan. That person is Brian L. Morris, General Manager, Plumas County Flood Control and Water Conservation District, 520 Main Street, Room 413, Quincy, CA 95971, telephone (530) 283-6243, email brianmorris@countyofplumas.com. Brian has provided a detailed response that is included at the end of this document under Appendix A. Additional information can be found at the Upper Feather River IRWM Plan website <http://www.countyofplumas.com/publicworks/watershed/index.htm> The DWR Funding

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Area Coordinator is Craig Cross at (916) 651-9204, email to ccross@water.ca.gov. The contact information for IRWM contact persons throughout the state can be found at http://www.grantsloans.water.ca.gov/grants/implementation/prop84/integregio_fundingarea.cfm

- (7) **ACTION ITEM:** In response to a later request, the facilitator said that the names, positions, and contact information for the representatives would be included in the notes (they were not on the agenda because not all representatives had been confirmed yet). This information is listed at the end of this document, and can also be found at <http://www.waterplan.water.ca.gov/tribal2/index.cfm> under the January 28 Tribal Water Plenary materials, the “Contact Info of Tribal Water Governance Speakers”. Lisa also noted that the information for all State Agency Steering Committee members was already available online, at <http://www.waterplan.water.ca.gov/sc2/members/index.cfm>
- (8) **ACTION ITEM:** A participant requested that the CWP work harder to make this list of Companion State Plans current. The facilitator agreed that this would be done.
- (9) **ACTION ITEM:** The facilitator said that the brochure would be made available on the website so that other people could access and print it. The brochure is now available at <http://www.waterplan.water.ca.gov/tribal2/index.cfm> under the January 28 Tribal Water Plenary materials, the “Brochure: Overview of the California Water Plan Update 2005”.
- (10) **ACTION ITEM:** The participant requested that this issue – the challenge of Tribes and Tribal resources straddling different hydrologic regions – be added to the Mind Map. Kamyar added that another challenge is that the regional boundaries of State agencies often do not overlap, like those of DWR and the SWRCB. Both of these items have been added to the Map, which is available at <http://www.waterplan.water.ca.gov/tribal2/index.cfm> under the January 28 Tribal Water Plenary materials, the “Mind Map”.
- ACTION ITEM:** A participant asked for the dates and locations of the upcoming Regional Workshops. Several but not yet all workshops now have dates and locations, which can be found at the end of this document, with the most up-to-date information being available at <http://www.waterplan.water.ca.gov/regional/workshops/index.cfm>

(9) ATTENDANCE

Tribal Members and Representatives

Angle, Art	Enterprise Rancheria
Archer, Steve	Big Valley Rancheria
Begay, Donna	Tubatulabs of Kern Valley
Burg, Marta J.	Attorney and Tribal Consultant
Campbell, Richard	Coyote Valley Band of Pomo Indians
Carmen, Melvin	North Fork Mono Tribe
Chatoian, Devin	Graton Rancheria
Chullakorn, Sirirat	Stewart's Point Rancheria
Columbro, Robert	Shingle Springs Rancheria
Combs, Bill	Big Valley Rancheria
Cook, Misty	Sherwood Valley Band of Pomo Indians
Crabtree, Angelo	Coyote Valley Band of Pomo Indians
Dandy, Stan	North Fork Mono Tribe
DeSpain, Mike	Greenville Rancheria
Ford, Shannon	Scotts Valley Band of Pomo Indians

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Franco, Mark	Winnemem Wintu Tribe
Goode, Ron	North Fork Mono Tribe
Hempthorne, Ben III	Potter Valley Tribe
Jack, Tony	Big Valley Rancheria
Kinney, Javier	San Manuel Band of Mission Indians
Knight, Hale	Hopland Band of Pomo Indians
La Pena, Michelle	Rumsey Band of Wintun Indians
Larson, Joel F.	Scotts Valley Band of Pomo Indians
Le Bean, Viola	Rumsey Band of Wintun Indians
Marshall, Bradley	Kashia Band of Pomo Indians
Mora, John	Pechanga Tribal Government
Mose, Rose	Calaveras Band of Miwok Indians
Potter, Erik	Robinson Rancheria
Qiu, Zhao	Redwood Valley Band of Pomo Indians
Quitiquit, Irenia	Robinson Rancheria
Ravenwood, Anna	Big Valley Rancheria
Reitman-Solas, Connie	Inter-Tribal Council of California
Reynolds, Ren	Enterprise Rancheria
Richard, Lucille	Barona Band of Mission Indians
Rosas, Linda	Big Valley Rancheria
Ryan, Sarah	Big Valley Rancheria
Schaver, Mike	Elem Pomo Tribe
Simon, Chris	Middletown Rancheria
Simon, Jose III	Middletown Rancheria
Simon, Jose Jr.	Middletown Rancheria
Stevenson, Atta	Cahto Tribe
Taylor, Cristy	Cahto Tribe
Turner, Paul	Augustine Band of Cahuilla Indians
Umbrello, Michael	Big Valley Rancheria
Williams, Rosemary	Big Valley Rancheria
Yonemura, Randy	Ione Band of Miwok Indians

Staff from DWR, State Agencies, and CCP

Beutler, Lisa	CCP
Cervantes, Tito	DWR Northern District
Cross, Barbara	DWR
Fougères, Dorian	CCP
Gomez, Cynthia	Caltrans
Gonzalez, Cuauhtémoc	OPR
Guivetchi, Kamyar	DWR
Hawkins, Tom	DWR
Kapahi, Gita	SWRCB
Lischeske, Carl	CDPH
McCready, Chris	DWR
Moeller, Lewis	DWR
Sime, Fraser	DWR Northern District
Talbot, Judie	CCP
Tipton, Evelyn	DWR
Yun, Joe	DWR

(10) CONTACT INFORMATION FOR WATER GOVERNANCE IN CALIFORNIA PANELISTS

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(11) GLOSSARY OF ACRONYMS

BTH – California Business, Transportation, and Housing Agency
CalEPA – California Environmental Protection Agency
CALFED – CALFED Bay-Delta Program
Caltrans – California Department of Transportation
CCP – Center for Collaborative Policy, California State University - Sacramento
CDPH – California Department of Public Health
CWP – California Water Plan Update 2009 (unless another update year is specified)
DWR – California Department of Water Resources
FERC – Federal Energy Regulatory Commission
IRWM – Integrated Regional Water Management (IRWMP = IWRM Plan)
OPR – Governor’s Office of Planning and Research
PAC – Public Advisory Committee
RMS – Resource Management Strategies
SWRCB – California State Water Resources Control Board
TCC – CWP Tribal Communication Committee
TMDL – Total Maximum Daily Load
USFS – United States Forest Service
USEPA – United States Environmental Protection Agency

(12) REGIONAL WORKSHOP LOCATIONS, DATES, AND GENERIC AGENDA

North Coast Region – Santa Rosa or Ukiah (date to be determined)
North Lahontan Region – Truckee or North Tahoe (date to be determined)
San Francisco Bay Region – Oakland on 3/24/08
Delta Area of Interest – Courtland on 3/27/08
Mountain Counties Area of Interest – Sonora on 4/11/08
Sacramento Region – Yuba City on 4/2/08
San Joaquin/Tulare Regions – near Friant on 4/11/08
South Lahontan Region – Apple Valley (near Victorville) on 3/5/08
Central Coast Region – Salinas on 3/25/08
Colorado River Region – Desert Hot Springs on 3/4/08
South Coast Region – San Diego on 3/6/08

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DRAFT AGENDA CALIFORNIA WATER PLAN, UPDATE 2009 REGIONAL WORKSHOP

DATE, TIME

LOCATION

MEETING PURPOSE & GOALS:

1. Solicit input on Regional activities and conditions for the initial draft Regional Report
2. Update on Water Plan Activities, including coordination with integrated water management and flood management planning
3. Present brief overview of initial drafts for Resource Management Strategies

#	TIME	ITEM	PRESENTER & MATERIALS
1.	30 min.	Registration – This workshop is being hosted by <u>(sponsor name)</u>	
2.	15 min.	Welcome, Introductions, Announcements, Agenda Review, Ground Rules; Objectives of Round 2 Regional Workshops	Sponsor, DWR, CCP
3.	25 min.	Status of California Water Plan (CWP) Activities: <ul style="list-style-type: none"> ▪ Coordination with Integrated Regional Water Management (local efforts) and Integrated Flood Management ▪ CWP Tribal Outreach, Draft Assumptions & Estimates Report ▪ Initial Drafts of Regional Reports, Resource Management Strategies, Scenarios 	DWR <i>see: Coordination Handout</i> (see agenda items below)
4.	20 min.	Update of Regional Reports <ul style="list-style-type: none"> ▪ What We Heard in Round 1 Workshops and How it was Incorporated into a Revised Outline for Regional Reports 	DWR <i>see: Regional Report Outline</i>
5.	20 min.	DISCUSSION – How Could the Regional Report Outline be Improved to Describe Regional Water Management and Planning Efforts?	All
6.	20 min.	Regional Report – Overview of Initial Draft: Setting and Regional Water Conditions	DWR – <i>see: 2009 Draft Regional Report</i>
7.	20 min.	DISCUSSION – Suggestions on Content for Regional Report: Setting and Regional Water Conditions	
8.	70 min.	WORKING LUNCH – Continued discussion <ul style="list-style-type: none"> ▪ Group Reports from Discussion 	All
9.	20 min.	Regional Report – Overview of Initial Draft: State of Regional Planning, Relationship with Other Regions, Looking to the Future, Water Portfolios, Selected References	DWR <i>see: 2009 Draft Regional Report</i>
10.	60 min.	DISCUSSION – Suggestions on Content for Regional Report: Regional Planning, Relationship with Other Regions, Looking to the Future, Water Portfolios, References <ul style="list-style-type: none"> ▪ Group Reports from Discussion 	All
11.	25 min.	Next Steps – May 2008 All-Regions Forum: <ul style="list-style-type: none"> ▪ Resource Management Strategies (RMS) ▪ Future Scenarios 	DWR – <i>see: RMS handout</i>
12.	5 min.	Closing Remarks and Adjourn	DWR, Sponsors

(13) APPENDIX A: UPPER FEATHER IRWMP (PLUMAS COUNTY) AND PRESCRIBED BURNING

[Dear Barbara Cross, Government and Community Liaison, DWR]

Sorry, I don't have a simple yes/no answer about prescribed burning in the Upper Feather IRWMP. The answer is yes and no and that events have overtaken the current version of the IRWMP.

The 2005 version of the Upper Feather IRWMP only has minimal reference to prescribed burning, which is in the context of implementing the Herger-Feinstein Quincy Library Group (QLG) pilot project. The current IRWMP does not specifically address traditional uses of fire in the meadows or woodlands.

One of the seven overarching goals of the 2005 Upper Feather IRWMP is to improve upland vegetative management, which includes implementing the management prescriptions in the QLG statute. The long-term QLG strategy is to permit reintroduction of low intensity wildfire into ecosystem management. While it is not expected that fire will completely resume the role it once played in the forest, it is recognized that there are essential functions that low intensity fire must perform or will perform most efficiently.

However, different perspectives on the use of fire (e.g. Maidu vs. Forest Service) is an issue that has been identified in the process of preparing the second edition of our IRWMP. From 2005 through 2007, we used funding from DWR to support outreach activities through the Maidu Cultural and Development Group, and one of the key management actions identified was the traditional use of fire to manage meadows and woodlands. We will be considering specific management actions in the course of updating our IRWMP with participation from both the Forest Service and the Maidu.

In the meantime, there are some examples of ongoing activities that relate to our IRWM program and prescribed burning/traditional management:

- 1) Maidu Stewardship Project. This project on National Forest lands near Greenville was intended to demonstrate the application of Maidu traditional ecological knowledge. Unfortunately, institutional conflicts with the Forest Service have hampered its progress. We have entered MOUs with both the Forest Service and the Maidu to implement the IRWM program, and we are hopeful that better cooperation and coordination will lessen some of the institutional obstacles.
- 2) Humbug Valley. Humbug Valley, a little ways to the west of Lake Almanor, is an important cultural area, and its management is currently in flux as a result of the FERC relicensing of the Rock Creek/Cresta project as well as the disposal of PG&E lands through the Forest Lands Stewardship Council. We are working through the Rock Creek/Cresta Ecological Resources Committee and the Maidu Summit to plan for the restoration and long-term management of this area. Since this is private land, it holds great potential for long-term, traditional Maidu management unencumbered by outside institutional constraints.
- 3) Meadow-carbon research. One of the new questions about prescribed burning – either in woodlands or on the meadows – is how it relates to concerns over carbon sequestration and greenhouse gas emissions. The Feather River Coordinated Resource Management Group is currently engaged in a research project with the University of Nevada, Reno, to evaluate the carbon sequestration effects of meadows in different conditions.

Generally, that is where things stand with us at the current time. Please let me know if I can answer any other questions.

Brian L. Morris, General Manager

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